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OFFICE OF PETITIONS

In re Application of	:	
Hirotada Sasaki	:	DECISION ON APPLICATION
Application No. 09/890,407	:	FOR PATENT TERM ADJUSTMENT
Filed: November 5, 2001	:	
Attorney Docket No. 5225.0213	:	

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed November 4, 2005, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **fourteen (14)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 22, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one hundred eleven (111) days.

The Office initially determined a patent term adjustment of one hundred eleven (111) days based on an adjustment for PTO delay of two hundred twenty-eight (228) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and twenty-three (23) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by twenty-one (21), eighty-eight (88), and thirty-one (31) days of applicant delay pursuant to 35 U.S.C. § 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 228 days is at issue.

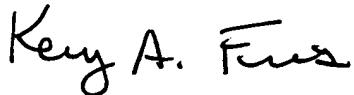
A review of the record reveals that the total PTA should be reduced because the application did not fulfill the requirements of 35 U.S.C. 371 until November 5, 2001, not July 31, 2001 as reflected in PAIR. Pursuant to 37 C.F.R. 1.702(a)(1), the 14 month period for determining PTO delay begins on the date the "application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371..." (emphasis added).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **fourteen (14)** days (154 (131+23) days of PTO delay, reduced by 140 (21+88+31) days of applicant delay).

Given the basis for granting this petition, the petition fee will be refunded to petitioner under separate cover. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation